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**SEP 16 2004**

**OFFICE OF PETITIONS**

In re Application of :  
Thielen, et al. : DECISION ON APPLICATION FOR  
Application No. 09/828,275 : PATENT TERM ADJUSTMENT  
Filed: April 6, 2001 :  
Atty. Dkt. No.: 01030 :

This is a decision on the "APPLICATION FOR PATENT TERM  
ADJUSTMENT" under 37 CFR 1.705(b) filed March 23, 2004.

The application for patent term adjustment ("PTA") under 37 CFR  
1.705(b) is hereby GRANTED.

The Office will adjust the PAIR screen to reflect that the  
Patent Term Adjustment ("PTA") determination at the time of  
mailing of the Notice of Allowance reflects an adjustment of 160  
days. A copy of the updated PAIR screen showing the correct  
determination is enclosed.

Applicants request that the Determination of Patent Term  
Adjustment be corrected from the 130 day determination indicated  
on the Determination of Patent Term Adjustment mailed December  
24, 2003 to an adjustment of 160 days.

Review of the application history reveals that in accordance  
with 37 CFR 1.702(a)(1), an adjustment of 279 days can be  
attributed to the Office relative to the mailing of the non-  
final Office action on March 12, 2003. There were no further  
Office delays at the time of mailing of the Notice of Allowance  
within the meaning of 37 CFR 1.702.

Further review of the application history reveals that the  
adjustment of 279 days for Office delays is reduced a total of  
119 days for failure to engage in reasonable efforts to conclude  
prosecution of the application within the meaning of 37 CFR  
1.704. A reduction of 27 days is due relative to the response  
submitted October 2, 2001. The reduction began September 6,

2001, the day that is three months after the mailing date of the Notice to File Missing Parts of Nonprovisional Application, and ended October 2, 2001, the date the response was filed. A reduction of 92 days is due relative to the response submitted September 12, 2003. The delay began June 13, 2003, the date that is three months after the date the non-final Office action was mailed, and ended September 12, 2003, the date the response was filed.


Accordingly, the adjustment of 279 days is reduced 119 days resulting in a PTA of 160 days as of the mailing date of the Notice of Allowance.

The original oath reflects that Luke Kilyk was an attorney empowered to act on this application. However, the address listed in the application for patent term adjustment is different from the address in the original oath. A courtesy copy of this decision will be mailed to L. Kilyk. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. The file does not reflect a change of correspondence being filed in this application.

The required \$200.00 applicant fee has been charged to deposit account No. 03-0060 as authorized in the instant petition.

The application file is being forwarded to the Publications Division for timely issuance of a patent.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Alesia M. Brown at (703) 305-0310.

  
Karin Ferriter  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

CC: LUKE A. KILYK  
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